

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DONALD ROOTS,

Plaintiff,

v.

ROBERT W. FOX, et al.,

Defendants.

No. 2:24-cv-01767-DC-CKD PS

FINDINGS AND RECOMMENDATIONS TO
DISMISS FOR FAILURE TO PROSECUTE

Plaintiff Donal Roots proceeds in this action without counsel. The action was accordingly referred to the undersigned for pretrial matters by Eastern District of California (“Local Rule”) 302(c)(21). Plaintiff filed his Complaint on June 24, 2024. (ECF No. 1.) On May 21, 2025, the court issued an order granting defendants Katherine Carlson and Gavin Newsom’s motions to dismiss (ECF Nos. 11, 12) and giving plaintiff thirty (30) days to file an amended complaint. (ECF No. 29.) This order was served on plaintiff. However, on June 2, 2025, the mail was returned as undeliverable. (See Docket.) On October 10, 2025, the Court ordered plaintiff to show cause for his failure to keep the Court apprised of his current address. (ECF No. 30.) Plaintiff was also warned that failure to respond to the order would result in a recommendation that his claims be dismissed. (Id.) To date, plaintiff has not updated his address with the Court. Plaintiff has also not filed an amended complaint. Thus, the Court recommends that plaintiff’s case be dismissed for failure to prosecute.

1 I. Legal Standard

2 A district court may impose sanctions, including involuntary dismissal of a plaintiff's case
 3 pursuant to Federal Rule of Civil Procedure 41(b), where that plaintiff fails to prosecute his or her
 4 case or fails to comply with the court's orders, the Federal Rules of Civil Procedure, or the court's
 5 local rules. See Chambers v. NASCO, Inc., 501 U.S. 32, 44 (1991) (recognizing that a court "may
 6 act *sua sponte* to dismiss a suit for failure to prosecute"); Hells Canyon Preservation Council v.
 7 U.S. Forest Serv., 403 F.3d 683, 689 (9th Cir. 2005) (approving *sua sponte* dismissals under Rule
 8 41(b)); Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995) (per curiam) ("Failure to follow a district
 9 court's local rules is a proper ground for dismissal."); Ferdik v. Bonzelet, 963 F.2d 1258, 1260
 10 (9th Cir. 1992), as amended (May 22, 1992) ("Pursuant to Federal Rule of Civil Procedure 41(b),
 11 the district court may dismiss an action for failure to comply with any order of the court.");
 12 Thompson v. Housing Auth. of City of L.A., 782 F.2d 829, 831 (9th Cir. 1986) (per curiam)
 13 (stating that district courts have inherent power to control their dockets and may impose sanctions
 14 including dismissal or default). This Court's Local Rules are in accord. See E.D. Cal. Local Rule
 15 110 ("Failure of counsel or of a party to comply with these Rules or with any order of the Court
 16 may be grounds for imposition by the Court of any and all sanctions authorized by statute or Rule
 17 or within the inherent power of the Court."); E.D. Cal. Local Rule 183(a) (providing that a pro se
 18 party's failure to comply with the Federal Rules of Civil Procedure, the court's Local Rules, and
 19 other applicable law may support, among other things, dismissal of that party's action).

20 A court must weigh five factors in determining whether to dismiss a case for failure to
 21 prosecute, failure to comply with a court order, or failure to comply with a District Court's local
 22 rules. See Ferdik, 963 F.2d at 1260. These are:

- 23 (1) the public's interest in expeditious resolution of litigation;
- 24 (2) the court's need to manage its docket;
- 25 (3) the risk of prejudice to the defendants;
- (4) the public policy favoring disposition of cases on their merits; and
- (5) the availability of less drastic alternatives.

26 Id. at 1260-61; accord Pagtalunan v. Galaza, 291 F.3d 639, 642-43 (9th Cir. 2002).

27 II. Analysis

28 Here, the first two factors weigh in favor of dismissal, because this case has already been

1 delayed by plaintiff's failure to take the steps necessary to move this case forward. The third
2 factor also slightly favors dismissal, because, at a minimum, defendants have been deprived of an
3 opportunity to be promptly notified of the lawsuit and prepare their defense. With the passage of
4 time, witnesses' memories fade and evidence becomes stale.

5 Furthermore, the fifth factor, availability of less drastic alternatives, favors dismissal,
6 because the Court has already attempted less drastic alternatives. Specifically, the Court granted
7 plaintiff leave to amend, even though his complaint failed to state a claim. However, the court's
8 mail was returned as undeliverable, and plaintiff never informed the court of any change of
9 address. See Local Rule 182(f) (imposing a duty on parties to notify the court and parties of any
10 change of address); Carey v. King, 856 F.2d 1439, 1441 (9th Cir. 1988) ("A party, not the district
11 court, bears the burden of keeping the court apprised of any changes in [the party's] mailing
12 address."). Plaintiff has not filed an amended complaint, nor has he updated his address with the
13 Court. See Docket.

14 Finally, as to the fourth factor, the public policy favoring disposition of cases on their
15 merits, that factor is outweighed by the other Ferdik factors. Indeed, it is plaintiff's own failure to
16 prosecute the case and comply with the rules that precludes a resolution on the merits.

17 Therefore, after carefully evaluating the Ferdik factors, the court concludes that dismissal
18 is appropriate.

19 CONCLUSION

20 Accordingly, IT IS HEREBY RECOMMENDED that:

- 21 1. The action be dismissed pursuant to Federal Rule of Civil Procedure 41(b); and
- 22 2. The Clerk of Court be directed to close this case.

23 These findings and recommendations are submitted to the United States District Judge
24 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen (14)
25 days after being served with these findings and recommendations, any party may file written
26 objections with the court and serve a copy on all parties. Such a document should be captioned
27 "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections
28 shall be served on all parties and filed with the court within fourteen (14) days after service of the

1 objections. The parties are advised that failure to file objections within the specified time may
2 waive the right to appeal the District Court's order. Turner v. Duncan, 158 F.3d 449, 455 (9th
3 Cir. 1998); Martinez v. Ylst, 951 F.2d 1153, 1156-57 (9th Cir. 1991).

4 Dated: December 9, 2025



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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